

1 AN ACT in relation to driving offenses.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of
8 alcohol, other drug or drugs, intoxicating compound or
9 compounds or any combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood
13 or breath is 0.08 or more based on the definition of
14 blood and breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating
17 compound or combination of intoxicating compounds to a
18 degree that renders the person incapable of driving
19 safely;

20 (4) under the influence of any other drug or
21 combination of drugs to a degree that renders the person
22 incapable of safely driving;

23 (5) under the combined influence of alcohol, other
24 drug or drugs, or intoxicating compound or compounds to a
25 degree that renders the person incapable of safely
26 driving; or

27 (6) there is any amount of a drug, substance, or
28 compound in the person's breath, blood, or urine
29 resulting from the unlawful use or consumption of
30 cannabis listed in the Cannabis Control Act, a controlled
31 substance listed in the Illinois Controlled Substances

1 Act, or an intoxicating compound listed in the Use of
2 Intoxicating Compounds Act.

3 (b) The fact that any person charged with violating this
4 Section is or has been legally entitled to use alcohol, other
5 drug or drugs, or intoxicating compound or compounds, or any
6 combination thereof, shall not constitute a defense against
7 any charge of violating this Section.

8 (c) Except as provided under paragraphs (c-3), (c-4),
9 and (d) of this Section, every person convicted of violating
10 this Section or a similar provision of a local ordinance,
11 shall be guilty of a Class A misdemeanor and, in addition to
12 any other criminal or administrative action, for any second
13 conviction of violating this Section or a similar provision
14 of a law of another state or local ordinance committed within
15 5 years of a previous violation of this Section or a similar
16 provision of a local ordinance shall be mandatorily sentenced
17 to a minimum of 5 days of imprisonment or assigned to a
18 minimum of 30 days of community service as may be determined
19 by the court. Every person convicted of violating this
20 Section or a similar provision of a local ordinance shall be
21 subject to an additional mandatory minimum fine of \$500 and
22 an additional mandatory 5 days of community service in a
23 program benefiting children if the person committed a
24 violation of paragraph (a) or a similar provision of a local
25 ordinance while transporting a person under age 16. Every
26 person convicted a second time for violating this Section or
27 a similar provision of a local ordinance within 5 years of a
28 previous violation of this Section or a similar provision of
29 a law of another state or local ordinance shall be subject to
30 an additional mandatory minimum fine of \$500 and an
31 additional 10 days of mandatory community service in a
32 program benefiting children if the current offense was
33 committed while transporting a person under age 16. The
34 imprisonment or assignment under this subsection shall not be

1 subject to suspension nor shall the person be eligible for
2 probation in order to reduce the sentence or assignment.

3 (c-1) (1) A person who violates this Section during a
4 period in which his or her driving privileges are revoked
5 or suspended, where the revocation or suspension was for
6 a violation of this Section, Section 11-501.1, paragraph
7 (b) of Section 11-401, or Section 9-3 of the Criminal
8 Code of 1961 is guilty of a Class 4 felony.

9 (2) A person who violates this Section a third time
10 during a period in which his or her driving privileges
11 are revoked or suspended where the revocation or
12 suspension was for a violation of this Section, Section
13 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
14 of the Criminal Code of 1961 is guilty of a Class 3
15 felony.

16 (3) A person who violates this Section a fourth or
17 subsequent time during a period in which his or her
18 driving privileges are revoked or suspended where the
19 revocation or suspension was for a violation of this
20 Section, Section 11-501.1, paragraph (b) of Section
21 11-401, or Section 9-3 of the Criminal Code of 1961 is
22 guilty of a Class 2 felony.

23 (c-2) (Blank).

24 (c-3) Every person convicted of violating this Section
25 or a similar provision of a local ordinance who had a child
26 under age 16 in the vehicle at the time of the offense shall
27 have his or her punishment under this Act enhanced by 2 days
28 of imprisonment for a first offense, 10 days of imprisonment
29 for a second offense, 30 days of imprisonment for a third
30 offense, and 90 days of imprisonment for a fourth or
31 subsequent offense, in addition to the fine and community
32 service required under subsection (c) and the possible
33 imprisonment required under subsection (d). The imprisonment
34 or assignment under this subsection shall not be subject to

1 suspension nor shall the person be eligible for probation in
2 order to reduce the sentence or assignment.

3 (c-4) When a person is convicted of violating Section
4 11-501 of this Code or a similar provision of a local
5 ordinance, the following penalties apply when his or her
6 blood, breath, or urine was .16 or more based on the
7 definition of blood, breath, or urine units in Section
8 11-501.2 or when that person is convicted of violating this
9 Section while transporting a child under the age of 16:

10 (1) A person who is convicted of violating
11 subsection (a) of Section 11-501 of this Code a first
12 time, in addition to any other penalty that may be
13 imposed under subsection (c), is subject to a mandatory
14 minimum of 100 hours of community service and a minimum
15 fine of \$500.

16 (2) A person who is convicted of violating
17 subsection (a) of Section 11-501 of this Code a second
18 time within 10 years, in addition to any other penalty
19 that may be imposed under subsection (c), is subject to a
20 mandatory minimum of 2 days of imprisonment and a minimum
21 fine of \$1,250.

22 (3) A person who is convicted of violating
23 subsection (a) of Section 11-501 of this Code a third
24 time within 20 years is guilty of a Class 4 felony and,
25 in addition to any other penalty that may be imposed
26 under subsection (c), is subject to a mandatory minimum
27 of 90 days of imprisonment and a minimum fine of \$2,500.

28 (4) A person who is convicted of violating this
29 subsection (c-4) a fourth or subsequent time is guilty of
30 a Class 2 felony and, in addition to any other penalty
31 that may be imposed under subsection (c), is not eligible
32 for a sentence of probation or conditional discharge and
33 is subject to a minimum fine of \$2,500.

34 (d) (1) Every person convicted of committing a violation

1 of this Section shall be guilty of aggravated driving
 2 under the influence of alcohol, other drug or drugs, or
 3 intoxicating compound or compounds, or any combination
 4 thereof if:

5 (A) the person committed a violation of this
 6 Section, or a similar provision of a law of another
 7 state or a local ordinance when the cause of action
 8 is the same as or substantially similar to this
 9 Section, for the third or subsequent time;

10 (B) the person committed a violation of
 11 paragraph (a) while driving a school bus with
 12 children on board;

13 (C) the person in committing a violation of
 14 paragraph (a) was involved in a motor vehicle
 15 accident that resulted in great bodily harm or
 16 permanent disability or disfigurement to another,
 17 when the violation was a proximate cause of the
 18 injuries;

19 (D) the person committed a violation of
 20 paragraph (a) for a second time and has been
 21 previously convicted of violating Section 9-3 of the
 22 Criminal Code of 1961 relating to reckless homicide
 23 in which the person was determined to have been
 24 under the influence of alcohol, other drug or drugs,
 25 or intoxicating compound or compounds as an element
 26 of the offense or the person has previously been
 27 convicted under subparagraph (C) or subparagraph (F)
 28 of this paragraph (1); ~~or~~

29 (E) the person, in committing a violation of
 30 paragraph (a) while driving at any speed in a school
 31 speed zone at a time when a speed limit of 20 miles
 32 per hour was in effect under subsection (a) of
 33 Section 11-605 of this Code, was involved in a motor
 34 vehicle accident that resulted in bodily harm, other

1 than great bodily harm or permanent disability or
 2 disfigurement, to another person, when the violation
 3 of paragraph (a) was a proximate cause of the bodily
 4 harm; or-

5 (F) the person, in committing a violation of
 6 paragraph (a), was involved in a motor vehicle,
 7 snowmobile, all-terrain vehicle, or watercraft
 8 accident that resulted in the death of another
 9 person, when the violation of paragraph (a) was a
 10 proximate cause of the death.

11 (2) Except as provided in this paragraph (2),
 12 aggravated driving under the influence of alcohol, other
 13 drug or drugs, or intoxicating compound or compounds, or
 14 any combination thereof is a Class 4 felony. For a
 15 violation of subparagraph (C) of paragraph (1) of this
 16 subsection (d), the defendant, if sentenced to a term of
 17 imprisonment, shall be sentenced to not less than one
 18 year nor more than 12 years. Aggravated driving under the
 19 influence of alcohol, other drug or drugs, or
 20 intoxicating compound or compounds, or any combination
 21 thereof as defined in subparagraph (F) of paragraph (1)
 22 of this subsection (d) is a Class 2 felony, for which the
 23 defendant, if sentenced to a term of imprisonment, shall
 24 be sentenced to: (A) a term of imprisonment of not less
 25 than 3 years and not more than 14 years if the violation
 26 resulted in the death of one person; or (B) a term of
 27 imprisonment of not less than 6 years and not more than
 28 28 years if the violation resulted in the deaths of 2 or
 29 more persons. For any prosecution under this subsection
 30 (d), a certified copy of the driving abstract of the
 31 defendant shall be admitted as proof of any prior
 32 conviction.

33 (e) After a finding of guilt and prior to any final
 34 sentencing, or an order for supervision, for an offense based

1 upon an arrest for a violation of this Section or a similar
2 provision of a local ordinance, individuals shall be required
3 to undergo a professional evaluation to determine if an
4 alcohol, drug, or intoxicating compound abuse problem exists
5 and the extent of the problem, and undergo the imposition of
6 treatment as appropriate. Programs conducting these
7 evaluations shall be licensed by the Department of Human
8 Services. The cost of any professional evaluation shall be
9 paid for by the individual required to undergo the
10 professional evaluation.

11 (f) Every person found guilty of violating this Section,
12 whose operation of a motor vehicle while in violation of this
13 Section proximately caused any incident resulting in an
14 appropriate emergency response, shall be liable for the
15 expense of an emergency response as provided under Section
16 5-5-3 of the Unified Code of Corrections.

17 (g) The Secretary of State shall revoke the driving
18 privileges of any person convicted under this Section or a
19 similar provision of a local ordinance.

20 (h) Every person sentenced under paragraph (2) or (3) of
21 subsection (c-1) of this Section or subsection (d) of this
22 Section and who receives a term of probation or conditional
23 discharge shall be required to serve a minimum term of either
24 60 days community service or 10 days of imprisonment as a
25 condition of the probation or conditional discharge. This
26 mandatory minimum term of imprisonment or assignment of
27 community service shall not be suspended and shall not be
28 subject to reduction by the court.

29 (i) The Secretary of State shall require the use of
30 ignition interlock devices on all vehicles owned by an
31 individual who has been convicted of a second or subsequent
32 offense of this Section or a similar provision of a local
33 ordinance. The Secretary shall establish by rule and
34 regulation the procedures for certification and use of the

1 interlock system.

2 (j) In addition to any other penalties and liabilities,
3 a person who is found guilty of or pleads guilty to violating
4 this Section, including any person placed on court
5 supervision for violating this Section, shall be fined \$100,
6 payable to the circuit clerk, who shall distribute the money
7 to the law enforcement agency that made the arrest. If the
8 person has been previously convicted of violating this
9 Section or a similar provision of a local ordinance, the fine
10 shall be \$200. In the event that more than one agency is
11 responsible for the arrest, the \$100 or \$200 shall be shared
12 equally. Any moneys received by a law enforcement agency
13 under this subsection (j) shall be used to purchase law
14 enforcement equipment that will assist in the prevention of
15 alcohol related criminal violence throughout the State. This
16 shall include, but is not limited to, in-car video cameras,
17 radar and laser speed detection devices, and alcohol breath
18 testers. Any moneys received by the Department of State
19 Police under this subsection (j) shall be deposited into the
20 State Police DUI Fund and shall be used to purchase law
21 enforcement equipment that will assist in the prevention of
22 alcohol related criminal violence throughout the State.

23 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;
24 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.
25 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,
26 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)

27 Section 7. The Criminal Code of 1961 is amended by
28 changing Section 9-3 as follows:

29 (720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

30 Sec. 9-3. Involuntary Manslaughter and Reckless
31 Homicide.

32 (a) A person who unintentionally kills an individual

1 without lawful justification commits involuntary manslaughter
 2 if his acts whether lawful or unlawful which cause the death
 3 are such as are likely to cause death or great bodily harm to
 4 some individual, and he performs them recklessly, except in
 5 cases in which the cause of the death consists of the driving
 6 of a motor vehicle or operating a snowmobile, all-terrain
 7 vehicle, or watercraft, in which case the person commits
 8 reckless homicide.

9 (b) (Blank). In-cases-involving-reckless-homicide, being
 10 under--the-influence-of-alcohol-or-any-other-drug-or-drugs-at
 11 the-time-of-the-alleged-violation-shall--be--presumed--to--be
 12 evidence--of--a--reckless-act-unless-disproved-by-evidence-to
 13 the-contrary.

14 (c) (Blank). For-the-purposes-of-this-Section, a-person
 15 shall--be--considered-to-be-under-the-influence-of-alcohol-or
 16 ether-drugs-while:

17 1.--The-alcohol-concentration-in-the-person's--blood
 18 or--breath--is--0.08--or--more-based-on-the-definition-of
 19 blood--and--breath--units--in--Section--11-501.2--of--the
 20 Illinois-Vehicle-Code;

21 2.--Under-the-influence-of-alcohol-to-a-degree--that
 22 renders--the--person--incapable-of-safely-driving-a-motor
 23 vehicle-or-operating-a-snowmobile,--all-terrain--vehicle,
 24 or-watercraft;

25 3.--Under--the--influence--of--any--other--drug--or
 26 combination-of-drugs-to-a-degree-that-renders-the--person
 27 incapable--of-safely-driving-a-motor-vehicle-or-operating
 28 a-snowmobile,--all-terrain-vehicle,--or-watercraft;

29 4.--Under-the-combined-influence-of-alcohol-and--any
 30 other--drug-or-drugs-to-a-degree-which-renders-the-person
 31 incapable-of-safely-driving-a-motor-vehicle-or--operating
 32 a-snowmobile,--all-terrain-vehicle,--or-watercraft.

33 (d) Sentence.

34 (1) Involuntary manslaughter is a Class 3 felony.

1 (2) Reckless homicide is a Class 3 felony.

2 (e) (Blank). Except as otherwise provided in subsection
3 (e-5), in cases involving reckless homicide in which the
4 defendant was determined to have been under the influence of
5 alcohol or any other drug or drugs as an element of the
6 offense, or in cases in which the defendant is proven beyond
7 a reasonable doubt to have been under the influence of
8 alcohol or any other drug or drugs, the penalty shall be a
9 Class 2 felony, for which a person, if sentenced to a term of
10 imprisonment, shall be sentenced to a term of not less than 3
11 years and not more than 14 years.

12 (e-5) (Blank). In cases involving reckless homicide in
13 which the defendant was determined to have been under the
14 influence of alcohol or any other drug or drugs as an element
15 of the offense, or in cases in which the defendant is proven
16 beyond a reasonable doubt to have been under the influence of
17 alcohol or any other drug or drugs, if the defendant kills 2
18 or more individuals as part of a single course of conduct,
19 the penalty is a Class 2 felony, for which a person, if
20 sentenced to a term of imprisonment, shall be sentenced to a
21 term of not less than 6 years and not more than 28 years.

22 (f) In cases involving involuntary manslaughter in which
23 the victim was a family or household member as defined in
24 paragraph (3) of Section 112A-3 of the Code of Criminal
25 Procedure of 1963, the penalty shall be a Class 2 felony, for
26 which a person if sentenced to a term of imprisonment, shall
27 be sentenced to a term of not less than 3 years and not more
28 than 14 years.

29 (Source: P.A. 91-6, eff. 1-1-00; 91-122, eff. 1-1-00; 92-16,
30 eff. 6-28-01.)

31 Section 10. The Unified Code of Corrections is amended
32 by changing Sections 3-6-3 and 5-4-1 as follows:

1 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)
2 Sec. 3-6-3. Rules and Regulations for Early Release.

3 (a) (1) The Department of Corrections shall
4 prescribe rules and regulations for the early release on
5 account of good conduct of persons committed to the
6 Department which shall be subject to review by the
7 Prisoner Review Board.

8 (2) The rules and regulations on early release
9 shall provide, with respect to offenses committed on or
10 after June 19, 1998, the following:

11 (i) that a prisoner who is serving a term of
12 imprisonment for first degree murder or for the
13 offense of terrorism shall receive no good conduct
14 credit and shall serve the entire sentence imposed
15 by the court;

16 (ii) that a prisoner serving a sentence for
17 attempt to commit first degree murder, solicitation
18 of murder, solicitation of murder for hire,
19 intentional homicide of an unborn child, predatory
20 criminal sexual assault of a child, aggravated
21 criminal sexual assault, criminal sexual assault,
22 aggravated kidnapping, aggravated battery with a
23 firearm, heinous battery, aggravated battery of a
24 senior citizen, or aggravated battery of a child
25 shall receive no more than 4.5 days of good conduct
26 credit for each month of his or her sentence of
27 imprisonment; and

28 (iii) that a prisoner serving a sentence for
29 home invasion, armed robbery, aggravated vehicular
30 hijacking, aggravated discharge of a firearm, or
31 armed violence with a category I weapon or category
32 II weapon, when the court has made and entered a
33 finding, pursuant to subsection (c-1) of Section
34 5-4-1 of this Code, that the conduct leading to

1 conviction for the enumerated offense resulted in
2 great bodily harm to a victim, shall receive no more
3 than 4.5 days of good conduct credit for each month
4 of his or her sentence of imprisonment.

5 (2.1) For all offenses, other than those enumerated
6 in subdivision (a)(2) committed on or after June 19,
7 1998, and other than the offense of reckless homicide as
8 defined in subsection (e) of Section 9-3 of the Criminal
9 Code of 1961 committed on or after January 1, 1999, or
10 aggravated driving under the influence of alcohol, other
11 drug or drugs, or intoxicating compound or compounds, or
12 any combination thereof as defined in subparagraph (F) of
13 paragraph (1) of subsection (d) of Section 11-501 of the
14 Illinois Vehicle Code, the rules and regulations shall
15 provide that a prisoner who is serving a term of
16 imprisonment shall receive one day of good conduct credit
17 for each day of his or her sentence of imprisonment or
18 recommitment under Section 3-3-9. Each day of good
19 conduct credit shall reduce by one day the prisoner's
20 period of imprisonment or recommitment under Section
21 3-3-9.

22 (2.2) A prisoner serving a term of natural life
23 imprisonment or a prisoner who has been sentenced to
24 death shall receive no good conduct credit.

25 (2.3) The rules and regulations on early release
26 shall provide that a prisoner who is serving a sentence
27 for reckless homicide as defined in subsection (e) of
28 Section 9-3 of the Criminal Code of 1961 committed on or
29 after January 1, 1999, or aggravated driving under the
30 influence of alcohol, other drug or drugs, or
31 intoxicating compound or compounds, or any combination
32 thereof as defined in subparagraph (F) of paragraph (1)
33 of subsection (d) of Section 11-501 of the Illinois
34 Vehicle Code, shall receive no more than 4.5 days of good

1 conduct credit for each month of his or her sentence of
2 imprisonment.

3 (2.4) The rules and regulations on early release
4 shall provide with respect to the offenses of aggravated
5 battery with a machine gun or a firearm equipped with any
6 device or attachment designed or used for silencing the
7 report of a firearm or aggravated discharge of a machine
8 gun or a firearm equipped with any device or attachment
9 designed or used for silencing the report of a firearm,
10 committed on or after the effective date of this
11 amendatory Act of 1999, that a prisoner serving a
12 sentence for any of these offenses shall receive no more
13 than 4.5 days of good conduct credit for each month of
14 his or her sentence of imprisonment.

15 (2.5) The rules and regulations on early release
16 shall provide that a prisoner who is serving a sentence
17 for aggravated arson committed on or after the effective
18 date of this amendatory Act of the 92nd General Assembly
19 shall receive no more than 4.5 days of good conduct
20 credit for each month of his or her sentence of
21 imprisonment.

22 (3) The rules and regulations shall also provide
23 that the Director may award up to 180 days additional
24 good conduct credit for meritorious service in specific
25 instances as the Director deems proper; except that no
26 more than 90 days of good conduct credit for meritorious
27 service shall be awarded to any prisoner who is serving a
28 sentence for conviction of first degree murder, reckless
29 homicide while under the influence of alcohol or any
30 other drug, or aggravated driving under the influence of
31 alcohol, other drug or drugs, or intoxicating compound or
32 compounds, or any combination thereof as defined in
33 subparagraph (F) of paragraph (1) of subsection (d) of
34 Section 11-501 of the Illinois Vehicle Code, aggravated

1 kidnapping, kidnapping, predatory criminal sexual assault
2 of a child, aggravated criminal sexual assault, criminal
3 sexual assault, deviate sexual assault, aggravated
4 criminal sexual abuse, aggravated indecent liberties with
5 a child, indecent liberties with a child, child
6 pornography, heinous battery, aggravated battery of a
7 spouse, aggravated battery of a spouse with a firearm,
8 stalking, aggravated stalking, aggravated battery of a
9 child, endangering the life or health of a child, cruelty
10 to a child, or narcotic racketeering. Notwithstanding
11 the foregoing, good conduct credit for meritorious
12 service shall not be awarded on a sentence of
13 imprisonment imposed for conviction of: (i) one of the
14 offenses enumerated in subdivision (a)(2) when the
15 offense is committed on or after June 19, 1998, (ii)
16 reckless homicide as defined in subsection (e) of Section
17 9-3 of the Criminal Code of 1961 when the offense is
18 committed on or after January 1, 1999, or aggravated
19 driving under the influence of alcohol, other drug or
20 drugs, or intoxicating compound or compounds, or any
21 combination thereof as defined in subparagraph (F) of
22 paragraph (1) of subsection (d) of Section 11-501 of the
23 Illinois Vehicle Code, (iii) one of the offenses
24 enumerated in subdivision (a)(2.4) when the offense is
25 committed on or after the effective date of this
26 amendatory Act of 1999, or (iv) aggravated arson when the
27 offense is committed on or after the effective date of
28 this amendatory Act of the 92nd General Assembly.

29 (4) The rules and regulations shall also provide
30 that the good conduct credit accumulated and retained
31 under paragraph (2.1) of subsection (a) of this Section
32 by any inmate during specific periods of time in which
33 such inmate is engaged full-time in substance abuse
34 programs, correctional industry assignments, or

1 educational programs provided by the Department under
2 this paragraph (4) and satisfactorily completes the
3 assigned program as determined by the standards of the
4 Department, shall be multiplied by a factor of 1.25 for
5 program participation before August 11, 1993 and 1.50 for
6 program participation on or after that date. However, no
7 inmate shall be eligible for the additional good conduct
8 credit under this paragraph (4) while assigned to a boot
9 camp, mental health unit, or electronic detention, or if
10 convicted of an offense enumerated in paragraph (a)(2) of
11 this Section that is committed on or after June 19, 1998,
12 or if convicted of reckless homicide as defined in
13 subsection (e) of Section 9-3 of the Criminal Code of
14 1961 if the offense is committed on or after January 1,
15 1999, or aggravated driving under the influence of
16 alcohol, other drug or drugs, or intoxicating compound or
17 compounds, or any combination thereof as defined in
18 subparagraph (F) of paragraph (1) of subsection (d) of
19 Section 11-501 of the Illinois Vehicle Code, or if
20 convicted of an offense enumerated in paragraph (a)(2.4)
21 of this Section that is committed on or after the
22 effective date of this amendatory Act of 1999, or first
23 degree murder, a Class X felony, criminal sexual assault,
24 felony criminal sexual abuse, aggravated criminal sexual
25 abuse, aggravated battery with a firearm, or any
26 predecessor or successor offenses with the same or
27 substantially the same elements, or any inchoate offenses
28 relating to the foregoing offenses. No inmate shall be
29 eligible for the additional good conduct credit under
30 this paragraph (4) who (i) has previously received
31 increased good conduct credit under this paragraph (4)
32 and has subsequently been convicted of a felony, or (ii)
33 has previously served more than one prior sentence of
34 imprisonment for a felony in an adult correctional

1 facility.

2 Educational, vocational, substance abuse and
3 correctional industry programs under which good conduct
4 credit may be increased under this paragraph (4) shall be
5 evaluated by the Department on the basis of documented
6 standards. The Department shall report the results of
7 these evaluations to the Governor and the General
8 Assembly by September 30th of each year. The reports
9 shall include data relating to the recidivism rate among
10 program participants.

11 Availability of these programs shall be subject to
12 the limits of fiscal resources appropriated by the
13 General Assembly for these purposes. Eligible inmates
14 who are denied immediate admission shall be placed on a
15 waiting list under criteria established by the
16 Department. The inability of any inmate to become engaged
17 in any such programs by reason of insufficient program
18 resources or for any other reason established under the
19 rules and regulations of the Department shall not be
20 deemed a cause of action under which the Department or
21 any employee or agent of the Department shall be liable
22 for damages to the inmate.

23 (5) Whenever the Department is to release any
24 inmate earlier than it otherwise would because of a grant
25 of good conduct credit for meritorious service given at
26 any time during the term, the Department shall give
27 reasonable advance notice of the impending release to the
28 State's Attorney of the county where the prosecution of
29 the inmate took place.

30 (b) Whenever a person is or has been committed under
31 several convictions, with separate sentences, the sentences
32 shall be construed under Section 5-8-4 in granting and
33 forfeiting of good time.

34 (c) The Department shall prescribe rules and regulations

1 for revoking good conduct credit, or suspending or reducing
2 the rate of accumulation of good conduct credit for specific
3 rule violations, during imprisonment. These rules and
4 regulations shall provide that no inmate may be penalized
5 more than one year of good conduct credit for any one
6 infraction.

7 When the Department seeks to revoke, suspend or reduce
8 the rate of accumulation of any good conduct credits for an
9 alleged infraction of its rules, it shall bring charges
10 therefor against the prisoner sought to be so deprived of
11 good conduct credits before the Prisoner Review Board as
12 provided in subparagraph (a)(4) of Section 3-3-2 of this
13 Code, if the amount of credit at issue exceeds 30 days or
14 when during any 12 month period, the cumulative amount of
15 credit revoked exceeds 30 days except where the infraction is
16 committed or discovered within 60 days of scheduled release.
17 In those cases, the Department of Corrections may revoke up
18 to 30 days of good conduct credit. The Board may subsequently
19 approve the revocation of additional good conduct credit, if
20 the Department seeks to revoke good conduct credit in excess
21 of 30 days. However, the Board shall not be empowered to
22 review the Department's decision with respect to the loss of
23 30 days of good conduct credit within any calendar year for
24 any prisoner or to increase any penalty beyond the length
25 requested by the Department.

26 The Director of the Department of Corrections, in
27 appropriate cases, may restore up to 30 days good conduct
28 credits which have been revoked, suspended or reduced. Any
29 restoration of good conduct credits in excess of 30 days
30 shall be subject to review by the Prisoner Review Board.
31 However, the Board may not restore good conduct credit in
32 excess of the amount requested by the Director.

33 Nothing contained in this Section shall prohibit the
34 Prisoner Review Board from ordering, pursuant to Section

1 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of
2 the sentence imposed by the court that was not served due to
3 the accumulation of good conduct credit.

4 (d) If a lawsuit is filed by a prisoner in an Illinois
5 or federal court against the State, the Department of
6 Corrections, or the Prisoner Review Board, or against any of
7 their officers or employees, and the court makes a specific
8 finding that a pleading, motion, or other paper filed by the
9 prisoner is frivolous, the Department of Corrections shall
10 conduct a hearing to revoke up to 180 days of good conduct
11 credit by bringing charges against the prisoner sought to be
12 deprived of the good conduct credits before the Prisoner
13 Review Board as provided in subparagraph (a)(8) of Section
14 3-3-2 of this Code. If the prisoner has not accumulated 180
15 days of good conduct credit at the time of the finding, then
16 the Prisoner Review Board may revoke all good conduct credit
17 accumulated by the prisoner.

18 For purposes of this subsection (d):

19 (1) "Frivolous" means that a pleading, motion, or
20 other filing which purports to be a legal document filed
21 by a prisoner in his or her lawsuit meets any or all of
22 the following criteria:

23 (A) it lacks an arguable basis either in law
24 or in fact;

25 (B) it is being presented for any improper
26 purpose, such as to harass or to cause unnecessary
27 delay or needless increase in the cost of
28 litigation;

29 (C) the claims, defenses, and other legal
30 contentions therein are not warranted by existing
31 law or by a nonfrivolous argument for the extension,
32 modification, or reversal of existing law or the
33 establishment of new law;

34 (D) the allegations and other factual

1 contentions do not have evidentiary support or, if
2 specifically so identified, are not likely to have
3 evidentiary support after a reasonable opportunity
4 for further investigation or discovery; or

5 (E) the denials of factual contentions are not
6 warranted on the evidence, or if specifically so
7 identified, are not reasonably based on a lack of
8 information or belief.

9 (2) "Lawsuit" means a petition for post-conviction
10 relief under Article 122 of the Code of Criminal
11 Procedure of 1963, a motion pursuant to Section 116-3 of
12 the Code of Criminal Procedure of 1963, a habeas corpus
13 action under Article X of the Code of Civil Procedure or
14 under federal law (28 U.S.C. 2254), a petition for claim
15 under the Court of Claims Act or an action under the
16 federal Civil Rights Act (42 U.S.C. 1983).

17 (e) Nothing in this amendatory Act of 1998 affects the
18 validity of Public Act 89-404.

19 (Source: P.A. 91-121, eff. 7-15-99; 91-357, eff. 7-29-99;
20 92-176, eff. 7-27-01; 92-854, eff. 12-5-02.)

21 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

22 Sec. 5-4-1. Sentencing Hearing.

23 (a) Except when the death penalty is sought under
24 hearing procedures otherwise specified, after a determination
25 of guilt, a hearing shall be held to impose the sentence.
26 However, prior to the imposition of sentence on an individual
27 being sentenced for an offense based upon a charge for a
28 violation of Section 11-501 of the Illinois Vehicle Code or a
29 similar provision of a local ordinance, the individual must
30 undergo a professional evaluation to determine if an alcohol
31 or other drug abuse problem exists and the extent of such a
32 problem. Programs conducting these evaluations shall be
33 licensed by the Department of Human Services. However, if

1 the individual is not a resident of Illinois, the court may,
2 in its discretion, accept an evaluation from a program in the
3 state of such individual's residence. The court may in its
4 sentencing order approve an eligible defendant for placement
5 in a Department of Corrections impact incarceration program
6 as provided in Section 5-8-1.1 or 5-8-1.3. At the hearing
7 the court shall:

8 (1) consider the evidence, if any, received upon
9 the trial;

10 (2) consider any presentence reports;

11 (3) consider the financial impact of incarceration
12 based on the financial impact statement filed with the
13 clerk of the court by the Department of Corrections;

14 (4) consider evidence and information offered by
15 the parties in aggravation and mitigation;

16 (5) hear arguments as to sentencing alternatives;

17 (6) afford the defendant the opportunity to make a
18 statement in his own behalf;

19 (7) afford the victim of a violent crime or a
20 violation of Section 11-501 of the Illinois Vehicle Code,
21 or a similar provision of a local ordinance, or a
22 qualified individual affected by a violation of Section
23 405, 405.1, 405.2, or 407 of the Illinois Controlled
24 Substances Act, committed by the defendant the
25 opportunity to make a statement concerning the impact on
26 the victim and to offer evidence in aggravation or
27 mitigation; provided that the statement and evidence
28 offered in aggravation or mitigation must first be
29 prepared in writing in conjunction with the State's
30 Attorney before it may be presented orally at the
31 hearing. Any sworn testimony offered by the victim is
32 subject to the defendant's right to cross-examine. All
33 statements and evidence offered under this paragraph (7)
34 shall become part of the record of the court. For the

1 purpose of this paragraph (7), "qualified individual"
2 means any person who (i) lived or worked within the
3 territorial jurisdiction where the offense took place
4 when the offense took place; and (ii) is familiar with
5 various public places within the territorial jurisdiction
6 where the offense took place when the offense took place.
7 For the purposes of this paragraph (7), "qualified
8 individual" includes any peace officer, or any member of
9 any duly organized State, county, or municipal peace unit
10 assigned to the territorial jurisdiction where the
11 offense took place when the offense took place; and

12 (8) in cases of reckless homicide afford the
13 victim's spouse, guardians, parents or other immediate
14 family members an opportunity to make oral statements.

15 (b) All sentences shall be imposed by the judge based
16 upon his independent assessment of the elements specified
17 above and any agreement as to sentence reached by the
18 parties. The judge who presided at the trial or the judge
19 who accepted the plea of guilty shall impose the sentence
20 unless he is no longer sitting as a judge in that court.
21 Where the judge does not impose sentence at the same time on
22 all defendants who are convicted as a result of being
23 involved in the same offense, the defendant or the State's
24 Attorney may advise the sentencing court of the disposition
25 of any other defendants who have been sentenced.

26 (c) In imposing a sentence for a violent crime or for an
27 offense of operating or being in physical control of a
28 vehicle while under the influence of alcohol, any other drug
29 or any combination thereof, or a similar provision of a local
30 ordinance, when such offense resulted in the personal injury
31 to someone other than the defendant, the trial judge shall
32 specify on the record the particular evidence, information,
33 factors in mitigation and aggravation or other reasons that
34 led to his sentencing determination. The full verbatim record

1 of the sentencing hearing shall be filed with the clerk of
2 the court and shall be a public record.

3 (c-1) In imposing a sentence for the offense of
4 aggravated kidnapping for ransom, home invasion, armed
5 robbery, aggravated vehicular hijacking, aggravated discharge
6 of a firearm, or armed violence with a category I weapon or
7 category II weapon, the trial judge shall make a finding as
8 to whether the conduct leading to conviction for the offense
9 resulted in great bodily harm to a victim, and shall enter
10 that finding and the basis for that finding in the record.

11 (c-2) If the defendant is sentenced to prison, other
12 than when a sentence of natural life imprisonment or a
13 sentence of death is imposed, at the time the sentence is
14 imposed the judge shall state on the record in open court the
15 approximate period of time the defendant will serve in
16 custody according to the then current statutory rules and
17 regulations for early release found in Section 3-6-3 and
18 other related provisions of this Code. This statement is
19 intended solely to inform the public, has no legal effect on
20 the defendant's actual release, and may not be relied on by
21 the defendant on appeal.

22 The judge's statement, to be given after pronouncing the
23 sentence, other than when the sentence is imposed for one of
24 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
25 shall include the following:

26 "The purpose of this statement is to inform the public of
27 the actual period of time this defendant is likely to spend
28 in prison as a result of this sentence. The actual period of
29 prison time served is determined by the statutes of Illinois
30 as applied to this sentence by the Illinois Department of
31 Corrections and the Illinois Prisoner Review Board. In this
32 case, assuming the defendant receives all of his or her good
33 conduct credit, the period of estimated actual custody is ...
34 years and ... months, less up to 180 days additional good

1 conduct credit for meritorious service. If the defendant,
2 because of his or her own misconduct or failure to comply
3 with the institutional regulations, does not receive those
4 credits, the actual time served in prison will be longer.
5 The defendant may also receive an additional one-half day
6 good conduct credit for each day of participation in
7 vocational, industry, substance abuse, and educational
8 programs as provided for by Illinois statute."

9 When the sentence is imposed for one of the offenses
10 enumerated in paragraph (a)(3) of Section 3-6-3, other than
11 when the sentence is imposed for one of the offenses
12 enumerated in paragraph (a)(2) of Section 3-6-3 committed on
13 or after June 19, 1998, and other than when the sentence is
14 imposed for reckless homicide as defined in subsection (e) of
15 Section 9-3 of the Criminal Code of 1961 if the offense was
16 committed on or after January 1, 1999, and other than when
17 the sentence is imposed for aggravated arson if the offense
18 was committed on or after the effective date of this
19 amendatory Act of the 92nd General Assembly, the judge's
20 statement, to be given after pronouncing the sentence, shall
21 include the following:

22 "The purpose of this statement is to inform the public of
23 the actual period of time this defendant is likely to spend
24 in prison as a result of this sentence. The actual period of
25 prison time served is determined by the statutes of Illinois
26 as applied to this sentence by the Illinois Department of
27 Corrections and the Illinois Prisoner Review Board. In this
28 case, assuming the defendant receives all of his or her good
29 conduct credit, the period of estimated actual custody is ...
30 years and ... months, less up to 90 days additional good
31 conduct credit for meritorious service. If the defendant,
32 because of his or her own misconduct or failure to comply
33 with the institutional regulations, does not receive those
34 credits, the actual time served in prison will be longer.

1 The defendant may also receive an additional one-half day
2 good conduct credit for each day of participation in
3 vocational, industry, substance abuse, and educational
4 programs as provided for by Illinois statute."

5 When the sentence is imposed for one of the offenses
6 enumerated in paragraph (a)(2) of Section 3-6-3, other than
7 first degree murder, and the offense was committed on or
8 after June 19, 1998, and when the sentence is imposed for
9 reckless homicide as defined in subsection (e) of Section 9-3
10 of the Criminal Code of 1961 if the offense was committed on
11 or after January 1, 1999, and when the sentence is imposed
12 for aggravated driving under the influence of alcohol, other
13 drug or drugs, or intoxicating compound or compounds, or any
14 combination thereof as defined in subparagraph (F) of
15 paragraph (1) of subsection (d) of Section 11-501 of the
16 Illinois Vehicle Code, and when the sentence is imposed for
17 aggravated arson if the offense was committed on or after the
18 effective date of this amendatory Act of the 92nd General
19 Assembly, the judge's statement, to be given after
20 pronouncing the sentence, shall include the following:

21 "The purpose of this statement is to inform the public of
22 the actual period of time this defendant is likely to spend
23 in prison as a result of this sentence. The actual period of
24 prison time served is determined by the statutes of Illinois
25 as applied to this sentence by the Illinois Department of
26 Corrections and the Illinois Prisoner Review Board. In this
27 case, the defendant is entitled to no more than 4 1/2 days of
28 good conduct credit for each month of his or her sentence of
29 imprisonment. Therefore, this defendant will serve at least
30 85% of his or her sentence. Assuming the defendant receives
31 4 1/2 days credit for each month of his or her sentence, the
32 period of estimated actual custody is ... years and ...
33 months. If the defendant, because of his or her own
34 misconduct or failure to comply with the institutional

1 regulations receives lesser credit, the actual time served in
2 prison will be longer."

3 When a sentence of imprisonment is imposed for first
4 degree murder and the offense was committed on or after June
5 19, 1998, the judge's statement, to be given after
6 pronouncing the sentence, shall include the following:

7 "The purpose of this statement is to inform the public of
8 the actual period of time this defendant is likely to spend
9 in prison as a result of this sentence. The actual period of
10 prison time served is determined by the statutes of Illinois
11 as applied to this sentence by the Illinois Department of
12 Corrections and the Illinois Prisoner Review Board. In this
13 case, the defendant is not entitled to good conduct credit.
14 Therefore, this defendant will serve 100% of his or her
15 sentence."

16 (d) When the defendant is committed to the Department of
17 Corrections, the State's Attorney shall and counsel for the
18 defendant may file a statement with the clerk of the court to
19 be transmitted to the department, agency or institution to
20 which the defendant is committed to furnish such department,
21 agency or institution with the facts and circumstances of the
22 offense for which the person was committed together with all
23 other factual information accessible to them in regard to the
24 person prior to his commitment relative to his habits,
25 associates, disposition and reputation and any other facts
26 and circumstances which may aid such department, agency or
27 institution during its custody of such person. The clerk
28 shall within 10 days after receiving any such statements
29 transmit a copy to such department, agency or institution and
30 a copy to the other party, provided, however, that this shall
31 not be cause for delay in conveying the person to the
32 department, agency or institution to which he has been
33 committed.

34 (e) The clerk of the court shall transmit to the

1 department, agency or institution, if any, to which the
2 defendant is committed, the following:

3 (1) the sentence imposed;

4 (2) any statement by the court of the basis for
5 imposing the sentence;

6 (3) any presentence reports;

7 (4) the number of days, if any, which the defendant
8 has been in custody and for which he is entitled to
9 credit against the sentence, which information shall be
10 provided to the clerk by the sheriff;

11 (4.1) any finding of great bodily harm made by the
12 court with respect to an offense enumerated in subsection
13 (c-1);

14 (5) all statements filed under subsection (d) of
15 this Section;

16 (6) any medical or mental health records or
17 summaries of the defendant;

18 (7) the municipality where the arrest of the
19 offender or the commission of the offense has occurred,
20 where such municipality has a population of more than
21 25,000 persons;

22 (8) all statements made and evidence offered under
23 paragraph (7) of subsection (a) of this Section; and

24 (9) all additional matters which the court directs
25 the clerk to transmit.

26 (Source: P.A. 91-357, eff. 7-29-99; 91-899, eff. 1-1-01;
27 92-176, eff. 7-27-01; 92-806, eff. 1-1-03; revised 9-18-02.).

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.